

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS, ~~FILED~~
WESTERN DIVISION

In re:

Jacalyn S. Nosek
Debtor

Chapter 13
Case No.: 02-46025-JBR

Debtor's Opposition to Ameriquest Mortgage Company's Motion for Relief from Stay

In opposition to *Ameriquest Mortgage Company's Motion for Relief from Stay*, Debtor responds as follows:

1. Admits.
2. Admits.
3. Admits.
4. Admits.
5. Admits.
6. Admits.
7. Debtor is without sufficient information to respond, and therefore denies and calls upon Movant to so prove. Debtor further states that Movant failed to attach a copy of the alleged Note to its pleadings.
8. Admits. Further answering, Debtor states that the lien of North American Capital Corp. is an impairment of her claimed exemptions. Debtor intends to move to avoid said lien.
9. Debtor is without sufficient information to respond, and therefore denies and calls upon Movant to so prove.

ENTERED ON DOCKET
3/15/03
31

10. Denies. Further answering, Debtor states that she has filed an *Objection to Proof of Claim Filed by Ameriquest Mortgage Company*, which is scheduled for hearing on March 25, 2003 at 3 p.m.
11. Debtor is without sufficient information to respond, and therefore denies and calls upon Movant to so prove. Debtor further states that Movant's estimate of foreclosure fees and costs and other costs, such as eviction and property preservation costs, appears excessive.
12. Debtor agrees that she has equity in the property, but denies that she has failed to make all post-petition payments due. See correspondence dated February 26, 2003, sent to Movant's counsel, and attached here as Exhibit 1.
13. Denies. See response to paragraph 12.
14. Denies. See response to paragraph 12.
15. Debtor is without sufficient information to respond, and therefore denies and calls upon Movant to so prove. Debtor further states that Movant's attempt to collect fees to bring a motion for relief which is factually unwarranted is unjust. Movant further objects to Movant's attempt to collect fees to prepare a proof of claim, and to respond to Debtor's *Objection to Proof of Claim Filed by Ameriquest Mortgage Company*. Debtor expressly reserves the right to recover her legal fees and costs incurred as a result of Ameriquest Mortgage Company's failure to properly process and credit post-petition payments made, and to respond to unwarranted pleadings filed by Ameriquest Mortgage Company.
16. Denies. Further answering Debtor states that the December payment was tendered on December 3, 2002, and returned by Ameriquest Mortgage Company.
17. Denies.

WHEREFORE, Debtor requests that Movant's motion for relief from stay be denied, and

that she be awarded her costs incurred in opposing Movant's motion for relief from stay. Debtor's counsel requests that he be allowed 10 days to submit an affidavit of fees and costs incurred.

Jacalyn S. Nosek
by her attorney,


Philip M. Stone, BBO # 544139
44 Front Street
Worcester, MA 01608
Tel. (508) 755-7354

Dated: March 5, 2003

CERTIFICATE OF SERVICE

I, Philip M. Stone, Esquire do hereby certify that on this day I forwarded a copy of the foregoing pleading by mailing same first class, postage prepaid to the following:

Chapter 13 Trustee (BY HAND)
44 Front Street
Worcester, MA 01601

Jacalyn S. Nosek
60 Bolton Road
PO Box 1311
S. Lancaster, MA 01561

For Ameriquest Mortgage:
c/o Jennifer G. Haskell
Ablitt & Caruolo, PC
333 North Avenue, 4th Floor
Wakefield, MA 01880


Philip M. Stone

ATTORNEY AT LAW
44 FRONT STREET
WORCESTER, MASSACHUSETTS 01608-1752

TELEPHONE (508) 755-7354
FAX (508) 752-3730
E-MAIL pstonelaw@rcn.com

February 26, 2003

Jennifer G. Haskell
Ablitt & Caruolo, PC
333 North Avenue, 4th Floor
Wakefield, MA 01880
Newport Beach, CA 92660

**RE: Jacalyn S. Nosek
Docket No. 02-46025-JBR**

Dear Ms. Haskell:

Ms. Nosek was in to see me yesterday regarding another aspect of her pending bankruptcy case.

She brought in the enclosed check, which she sent to Ameriquest for her December post-petition payment but which they returned to her. Please forward to Ameriquest to be applied to Ms. Nosek's December post-petition payment.

I am also enclosing a copy of a personal Money Order which was sent to Ameriquest for the January payment. Please confirm that these funds have also been properly credited to Ms. Nosek's post-petition obligations. Also enclosed is a copy of my November 1, 2002, letter to Ameriquest's California law firm, to whom I personally sent Ms. Nosek's first post-petition payment due.

Very truly yours,


Philip M. Stone

PMS/hs

enc.

cc: Client (letter only)
John Teston
Ameriquest Mortgage Company
PO Box 5646
Orange, CA 92863 (letter only)

JACALYN S. NOSEK of 7
60 BOLTON RD. 976-365-4466
P.O. BOX 1311
SOUTH LANCASTER, MA 01561-1311

5-13/110
04406765

223

12-03-02

DATE

PAY TO
the order of

A mortgag^t Mortgage \$ 820 1/4^o
Eight hundred twenty & "Four DOLLARS

Security Features
MICR
Dashed on Back

 Fleet

www.fleet.com
84415
Fax: Post Office
West Boston, Massachusetts 01583

MEMO Dec pymt

00110001380 94449 67053 0223

FOREVER FREE





PERSONAL
MONEY ORDER

647327330

Memo

JAN paymt

JAN 31. 03

Issued by Integrated Payment Systems Inc., Englewood, Colorado 82-401021
Payable at Wells Fargo Bank Grand Junction - Downtown, N.A., Grand Junction, Colorado

NOT VALID OVER \$1000

84415

PAY

TO THE ORDER OF

Akseri guest Mortgage Co.

NOTE: THE PURCHASER OF THIS MONEY ORDER AGREES TO INSERT IN INK, THE
PAYEE'S NAME AND ADDRESS, AND ASSUMES ALL RESPONSIBILITY FOR ~~AMOUNT~~ \$850.00
EVENTS MADE POSSIBLE BY FAILURE TO DO SO.

***\$850* DOLLARS* AND *00*CENTS*

NON NEGOTIABLE

Jan paymt
Signature

84415
Customer Copy

STREET ADDRESS

*21 Lancaster, MA
01561-4311*

RETAIN THIS COPY FOR YOUR RECORDS

ATTORNEY AT LAW
44 FRONT STREET
WORCESTER, MASSACHUSETTS 01608-1752

TELEPHONE (508) 755-7354
FAX (508) 752-3730
E-MAIL pstonelaw@rcn.com

November 1, 2002

ATTN: Darlene
Buchalter, Nemer, Fields & Younger
895 Dove Street, Ste. 400
P.O. Box 8129
Newport Beach, CA 92660

**RE: Jacalyn S. Nosek
Docket No. 02-46025-JBR**

Dear Darlene,

Per our conversation earlier today, enclosed is Ms. Nosek's check to be applied to her first post-petition payment due Ameriquest. Your law firm has filed an appearance in the above referenced case on behalf of Ameriquest Mortgage Company.

Very truly yours,


Philip M. Stone

PMS/hs

enc.

cc: Client (letter only)

